

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 3299 of 2004

Between:

M/s Bharat General, Prop. Kesoram Industries Ltd, (formerly known as Bharat General and Textile Industries Ltd.) Guntur, Rep. by its authorised signatory Sri Muralidhar Kothari.

..... PETITIONER

AND

The Commercial Tax Officer, Broadipet Circle, Guntur.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus declaring the inaction of the respondent in not granting refund of Rs. 18,76,462/- for the assessment years 1996-97 , 1997-98 and 1999-2000 as illegal, arbitrary, unjustified and contrary to provisiosn of law and consequently direct the respondent to refund the amount of Rs. 18,76,462/- together with the interest at 12% under sec. 33E of the APGST Act from 1-10-2000 and onwards.

Counsel for the Petitioner:MR.S.DWARAKANATH

Counsel for the Respondent : SPL GP FOR TAXES

The Court at the stage of admission, made the following :

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ORDER : (Per Sri Bilal Nazki, J)

Heard learned Counsel for the parties.

The Writ Petition was filed challenging the action of the respondents in not refunding the amount, to which the petitioner was held entitled to. In the counter affidavit it has been stated that the petitioner was entitled to refunds, but at his instance, the amounts were adjusted against his other liabilities and after adjusting all the liabilities, the net refund to the petitioner is around Rs.81,755/-. Since this liability has been accepted by the respondents and there is no other outstanding due against the petitioner, therefore there is no reason for respondents to withhold this amount.

Therefore, we allow the Writ Petition and direct that the amount of Rs.81,755/- be refunded to the petitioner along with interest, if permissible in law, within a period of two weeks from today. No costs.

(BILAL NAZKI, J)

7th September, 2004.

(S.ANANDA REDDY, J)

ajr

To

1 The Commercial Tax Officer, Broadipet Circle, Guntur.

2 Two C.Cs. to the Special GP for Taxes, High Court buildings,
Hyderabad (O.U.T)

3 Two C.D. copies.